

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

IN THE ELKHART CIRCUIT COURT
CAUSE NO. 20C01-0208-PL-498

STATE OF INDIANA,)
)
 Plaintiff,)
)
 v.)
)
BRIAN ANDERSON, and)
JON PAUL SCHELL)
)
 Defendants.)

FILED
JUL 29 2005
CLERK ELKHART
CIRCUIT COURT

**AGREED ENTRY REGARDING THE STATE OF INDIANA'S VERIFIED MOTION
FOR RULE TO SHOW CAUSE AND STIPULATED JUDGMENT BETWEEN
THE STATE OF INDIANA AND THE DEFENDANT, JON PAUL SCHELL**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, having filed its Verified Motion for Rule to Show Cause against the Defendant, Jon Paul Schell, and the Defendant acknowledges having been served with the same, do hereby enter into this Agreed Entry and Stipulation of Judgment ("Agreement"), and advise the Court of the following terms of the Agreement:

- 1) This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.
- 2) The Defendant, Jon Paul Schell, acknowledges he has been advised the Attorney General's role in this matter is to serve as counsel for the State of Indiana and the State of Indiana has not given the Defendant any legal advice regarding this matter. The Defendant expressly acknowledges the State of Indiana has previously advised the Defendant to secure legal counsel prior to entering into this Agreement for any legal advice the Defendant requires.
- 3) The State of Indiana's Verified Motion for Rule to Show Cause states a cause of action pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*

4) The Defendant, Jon Paul Schell, has previously engaged in the sale of goods via the Internet from his home in Elkhart County.

5) The Defendant acknowledges his transactions with consumers, Louis Perez, Dane Gerwig, Bryan Waddell, Gary Lins, Brian Foflygen, Donald Etters, and John Van Sandt, violated the terms of the injunction entered against him by this Court on September 27, 2002.

RELIEF ORDERED

6) The following injunctive provisions, which include the injunctive provisions of the Default Judgment entered against the Defendant, Jon Paul Schell, on September 27, 2002, shall remain in full force and effect. Specifically, pursuant to Ind. Code § 24-5-0.5-4(c), the Defendant, Jon Paul Schell, is permanently enjoined from engaging in the following acts and making, causing to be made, or permitting to be made the following representations:

- a. Engaging in the sale of items via the Internet;
- b. Representing expressly or by implication the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have which the Defendants know or reasonably should know it does not have;
- c. Representing expressly or by implication that the subject of a consumer transaction will be supplied to the public in greater quantity than the supplier intends or reasonably expects, when the Defendant knows or reasonably should know that it will not;
- d. Representing expressly or by implication the Defendants are able to deliver or complete the subject of a consumer transaction within a

reasonable period of time, when the Defendants know or reasonably should know they can not; and

- e. Representing expressly or by implication a consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendants, if the Defendants do not intend to sell it.

7) The contracts previously entered into by the Defendant via the Internet with consumers who either did not receive their item, or receive a refund from the Defendant, including but not limited to Louis Perez, Dane Gerwig, Bryan Waddell, Gary Lins, Brian Foflygen, Donald Etters, and John Van Sandt, are cancelled pursuant to Ind. Code § 24-5-0.5-4(d).

8) The Defendant shall pay consumer restitution, pursuant to Ind. Code § 24-5-0.5-4(c)(2), in the amount of Seven Thousand One Hundred Fifty-Five Dollars (\$7,155.00), payable to the Office of the Attorney General for allocation and distribution to the following consumers in the following amounts:

a)	Louis Perez of Torrance, California	\$ 120.00;
b)	Dane Gerwig of Clendenin, West Virginia	\$1,600.00;
c)	Bryan Waddell of Monroe, Wisconsin	\$2,800.00;
d)	Gary Lins of Hoboken, Georgia	\$1,000.00;
e)	Brian Foflygen of Burgettstown, Pennsylvania	\$ 485.00;
f)	Donald Etters of Chester, South Carolina	\$ 500.00; and
g)	John Van Sandt of Anderson, Illinois	<u>\$ 650.00.</u>
Total:		\$7,155.00

9) The Defendant shall pay the Office of the Attorney General's costs of investigating and prosecuting this action in the amount of One Thousand Eight Hundred Dollars (\$1,800.00), pursuant to Ind. Code § 24-5-0.5-4(c)(3).

10) The Defendant shall pay civil penalties, pursuant to Ind. Code § 24-5-0.5-4(f), for the Defendant's violation of the terms of a prior injunction issued pursuant to Ind. Code § 24-5-0.5-4(c), in the amount of Fifteen Thousand Dollars (\$15,000.00), payable to the State of Indiana.

A total monetary judgment in the amount of Twenty-Three Thousand Nine Hundred and Fifty-Five Dollars (\$23,955.00) shall therefore be entered in favor of the State of Indiana and against the Defendant, Jon Paul Schell.

CONTINUING JURISDICTION

11) The parties acknowledge and agree the Defendant, Jon Paul Schell, will be purged of the present contempt allegations upon payment of Twenty-Three Thousand Nine Hundred and Fifty-Five Dollars (\$23,955.00) to the Office of the Attorney General.

12) For the purpose of enforcing the provisions of this Agreement, any subsequent Court obtaining jurisdiction over the Defendant based on a complaint alleging a violation of any law that is the subject of this Agreement may take judicial notice of this Agreement and is deemed to be a proper venue for interpretation and enforcement of this agreement. The Defendant waives any objection regarding a Court's jurisdiction to punish for contempt and agrees to appear upon proper notice of a failure to comply with any of the provisions of this Agreement.

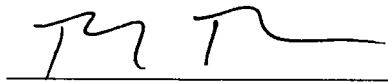
IN WITNESS WHEREOF, the parties have executed this Agreement this

21 day of July, 2005.

STATE OF INDIANA
STEVE CARTER
Indiana Attorney General

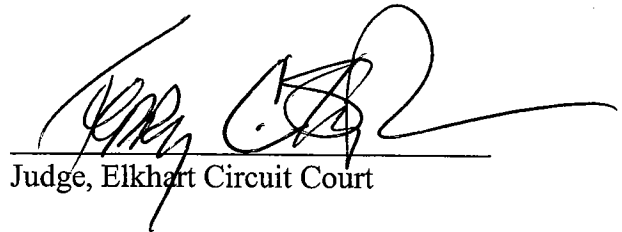

JON PAUL SCHELL

by:


Terry Tolliver
Deputy Attorney General
Attorney No. 22556-49

ALL OF WHICH IS APPROVED, ORDERED, ADJUDGED, AND DECREED this

21st day of July, 2005.


Judge, Elkhart Circuit Court

Distribution:

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